

PUBLIC NOTICE

US Army Corps of Engineers New York District Jacob K. Javits Federal Building New York, N.Y. 10278-0090 ATTN: Regulatory Branch

In replying refer to:

Public Notice Number: NAN-2007-1325-WCA

Issue Date: November 28, 2007

Expiration Date: December 27, 2007

To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT: New Jersey Meadowlands Commission

One DeKorte Park Plaza Lyndhurst, New Jersey 07071

ACTIVITY: Replace existing tide gates and culverts and perform bank stabilization and excavation activities

with upland disposal within the Rutherford and East Rutherford drainage ditches.

WATERWAY: Rutherford and East Rutherford Drainage Ditches (Hackensack River Watershed)

LOCATION: Boroughs of Rutherford and East Rutherford, Bergen County, New Jersey.

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination is that the activity for which authorization is sought herein is not likely to affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions or proposed actions, that are either permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Based upon a review of the "Guide to Essential Fish Habitat Designations in the Northeastern United States," issued by the National Oceanic and Atmospheric Administration/National Marine Fisheries Service, it is unlikely that EFH for any aquatic species and their life stages would be impacted by the proposed project. Further consultation with National Marine Fisheries Service regarding EFH impacts and conservation recommendations is being conducted and will be concluded prior to a final decision on the application.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

Reviews of activities pursuant to Section 404 of the Clean Water Act will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. By this public notice, we are requesting the state's concurrence with, objection to, or waiver of the applicant's certification. No permit decision will be made until one of these actions occur. For activities within the coastal zone of New Jersey the applicant's certification and accompanying information is available from the New Jersey Department of Environmental Protection, Bureau of Coastal Regulation, CN 401, 501 East State Street, Second Floor, Trenton, New Jersey 08625-0401, Telephone Number (609) 633-2289. Comments regarding the applicant's certification should be so addressed.

In addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorization for the activity under consideration: New Jersey Department of Environmental Protection Waterfront Development Permit.

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office at (917) 790-8412 and ask for James Cannon.

For more information on New York District Corps of Engineers programs, visit our website at http://www.nan.usace.army.mil

Richard L. Tømer

Chief, Regulatory Branch

Enclosures

WORK DESCRIPTION

The applicant, the New Jersey Meadowlands Commission (NJMC), has requested Department of the Army authorization to restore and cleanout both the Rutherford and East Rutherford drainage ditches for the purpose of alleviating flooding. The proposed restoration and cleanout activities would include maintenance dredging with upland disposal and bank stabilization within both ditches; the replacement of existing tide gates and culverts within Rutherford Ditch; the installation of a new tide gate and culverts, and the replacement of existing culverts within East Rutherford ditch. Additional activities would include the installation of new connector culverts to equalize the water flow between the two ditches. The project site is located within the Hackensack River watershed, in the Boroughs of Rutherford and East Rutherford, Bergen County, New Jersey.

The existing Rutherford and East Rutherford ditches generally extend approximately 4,800 linear feet and 4,100 linear feet from U.S. Route 17 to U.S. Route 3, along the existing active New Jersey Transit Bergen Railroad line and range from 8 to 22 feet in width. The Rutherford ditch is situated behind an existing deteriorated tide gate, and East Rutherford ditch is subject to tidal flow from Berry's Creek.

Proposed Excavation and Bank Stabilization Activities

The proposed project would include the excavation, by a land based excavator, of approximately 10,888 cubic yards of accumulated sediments from the Rutherford ditch and approximately 9,440 cubic yards of accumulated sediments from the East Rutherford ditch to achieve historic bottom grades. Excavation of sediments from the Rutherford ditch would range from the removal of approximately 3 to 4 feet from the northern end to approximately 2 feet from the southern end. Excavation of sediments from the East Rutherford ditch would range from the removal of approximately 2 to 3 feet from the northern end to approximately 1 foot at the southern end. Excavated sediments would be placed in adjacent upland areas with return flow entering back into the ditch. The excavated sediments would then be transported to upland soil staging areas for further controlled dewatering, followed by disposal at a state approved upland site. Three temporary access roads, approximately 25 to 30 feet in width and consisting of rock, sand, and geo-textile fiber would be constructed allowing construction equipment to access both the Rutherford and East Rutherford ditch areas. The first road would extend along Rutherford ditch approximately 580 linear feet. The second and third roads would extend along East Rutherford ditch approximately 100 linear feet in the central portion of the ditch, and approximately 675 linear feet in the northern portion of the ditch. As part of the proposed ditch excavation activities, the banks of both ditches would be modified to a 1:1 slope approximately, and outfall scour protection measures would be installed within the immediate vicinity of all outfall structures and would include the placement of concrete aprons, trash racks, rock filled wire mesh reno mattresses, sediment traps and headwalls.

Proposed Tide Gate Installation and Replacement

Rutherford Ditch

The existing, deteriorated tide gate system situated within the Rutherford drainage ditch consists of five pipes ranging from 24 to 36-inches in diameter with associated flap gates. The applicant proposes to replace the existing five tide gate pipes with five 72-inch diameter reinforced circular concrete pipes, each fitted with a Tideflex Type T-2 Valve (duckbill) to prevent tidal backflow. Two existing, deteriorated 36-inch culverts situated under the existing active railroad line would also be replaced in-kind.

East Rutherford Ditch

The proposed East Rutherford tide gate would consist of five 72-inch diameter reinforced circular concrete pipe culverts, each fitted with a Tideflex Type T-2 Valve (duckbill) to prevent tidal backflow. An existing deteriorated headwall (sluice gate) situated within East Rutherford ditch would be removed and disposed of at a state approved upland site. Two additional 36-inch diameter culvert pipes would be replaced in-kind.

Additional activities would include the construction and installation of a large-capacity equalizer pipe system consisting of four 60-inch diameter by 100 foot long pipe culverts. This equalizer pipe system would connect the Rutherford ditch to the East Rutherford ditch and would be installed beneath the existing railroad line.

Approximately 1.17 acres of wetlands and waters of the United States would be permanently impacted as a result of the proposed project. An additional 5.8 acres of wetlands would be temporarily impacted during construction. All temporarily disturbed wetlands would be restored to pre-construction elevations and planted with native vegetation where appropriate. In addition, and as a result of the installation of the tide gate within East Rutherford ditch, approximately 6 acres of tidal wetlands would be converted to non-tidal wetlands.

The applicant's conceptual mitigation plan to compensate for the 1.17 acres of permanent wetland impacts and 6 acres of converted wetlands includes setting aside a portion of existing enhanced tidal emergent wetlands currently located at the Secaucus High School tidal wetland site.

The stated purpose of the proposed drainage ditch system cleanout and restoration plan is to restore both the Rutherford and East Rutherford ditches to historic bottom elevations, replace a deteriorated tide gate, and install a new tide gate to alleviate existing flooding problems along Route 17 and the surrounding area caused by high tides and heavy rains.

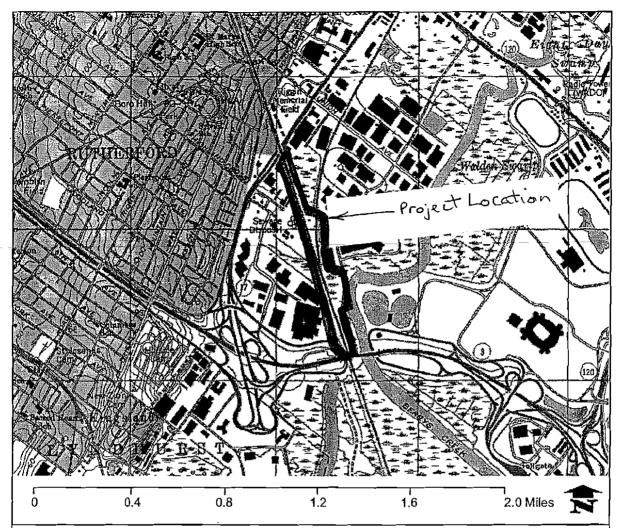


FIGURE 1: Location of the Rutherford/East Rutherford Drainage Ditch System Restoration Project Area. Source: Topozone USGS 7.5' Series Quadrangle, Weehawken, NJ/NY 2007.

TEMPORA WETLAND A (PEM/POW) (USACE SECTION 404)
PERMANENT IMPACT (0.009 AC) WETLAND A (PEM/POW) (USACE SECTION 404)
PERMANENT IMPACT (0.134 AC) TOW (0.37 AC.) REPLACE TIDE GATES WITH TOW (USACE SECTION 1.0) TEMPORARY IMPACT (0.040 AC) 72-INCH TIDE VALVES TOW (USACE SECTION 10)
PERMANENT IMPACT (0.085, AC) WETLAND A (PEM/POW) (USACE SECTION 404)
PERMANENT IMPACT (0.001 AC) REPLACE EXISTING PIPES WITH 5/72-INCH RCC-PIPES INSTALL TRASH RACK AND RENO MATTRESS

SHEET IA

Figure 2 of 14

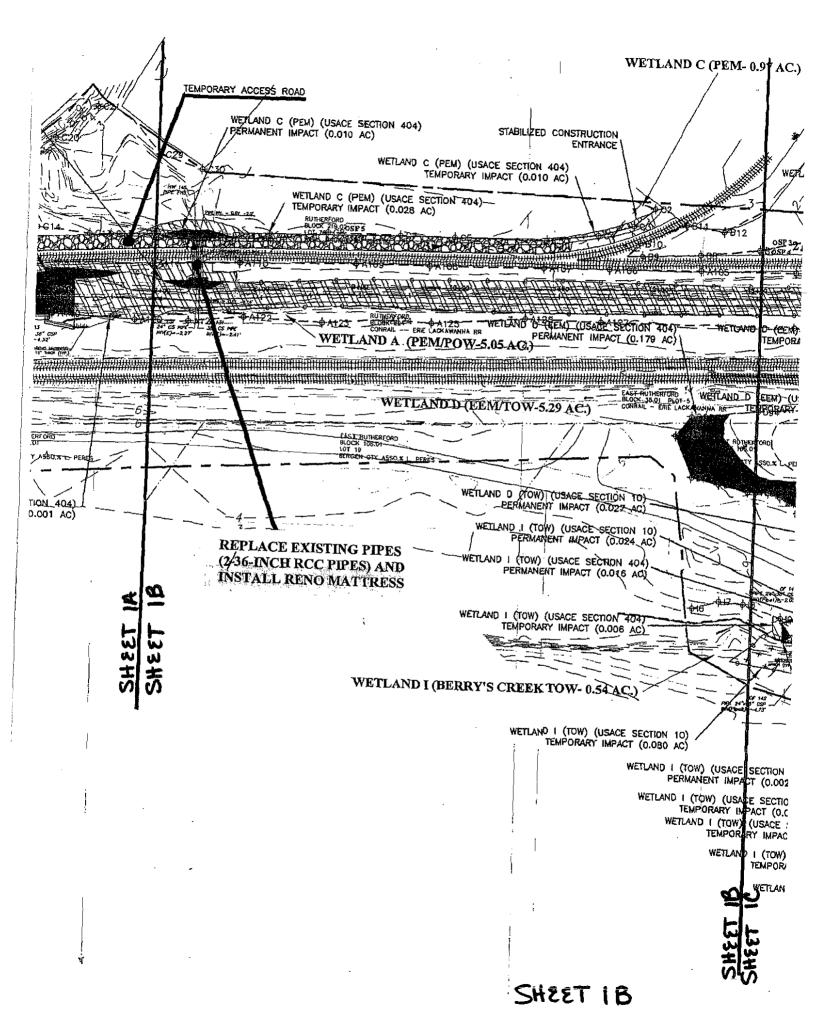


Figure 3 of 111

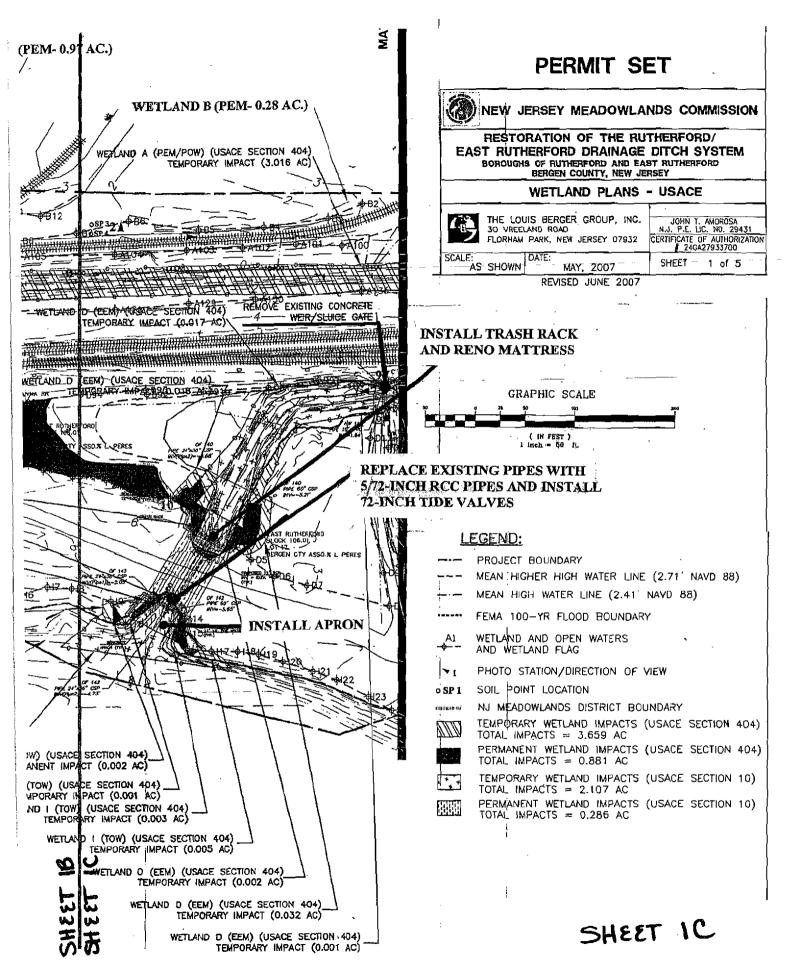
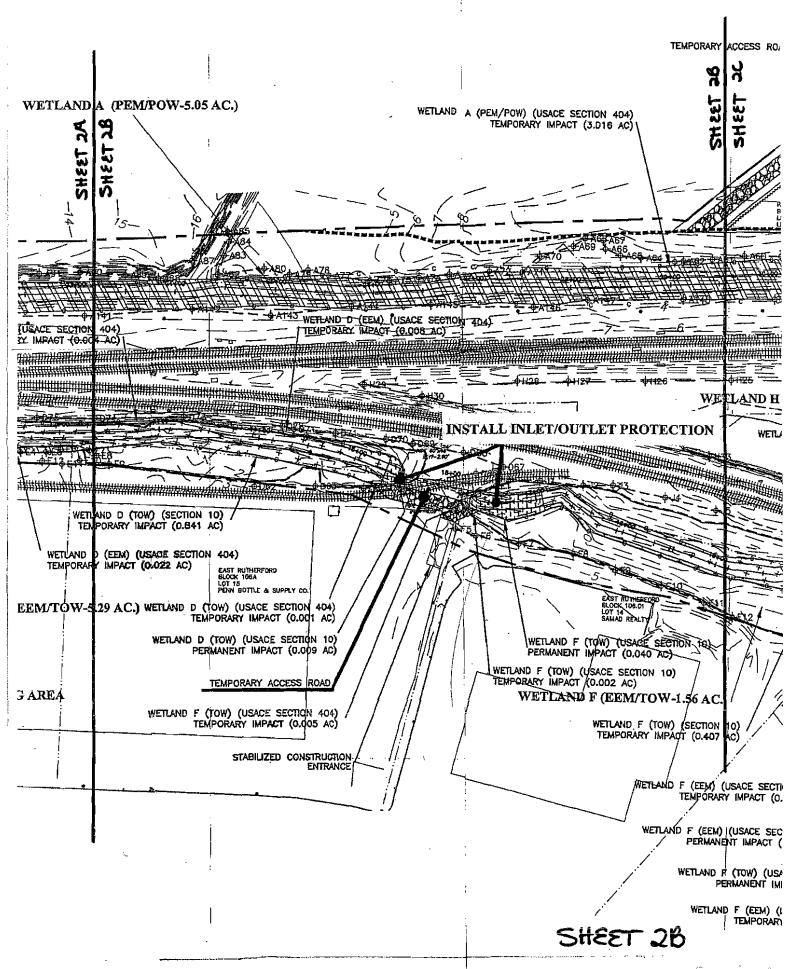


Figure 4 of 14

Figure 5 of 14



Frame 6 still

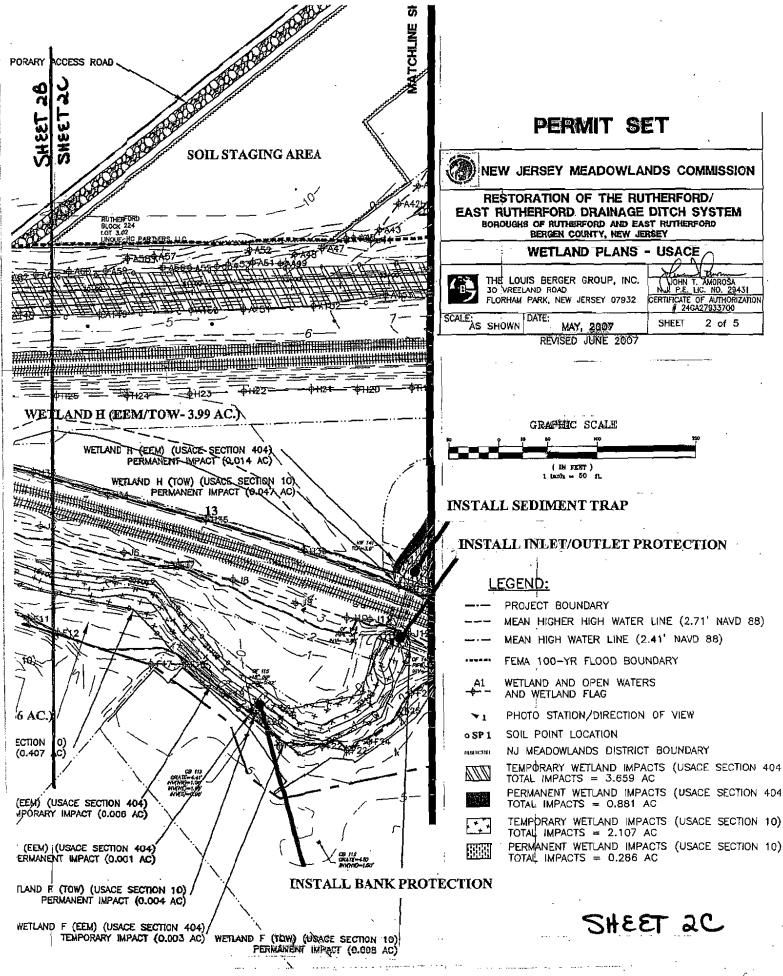
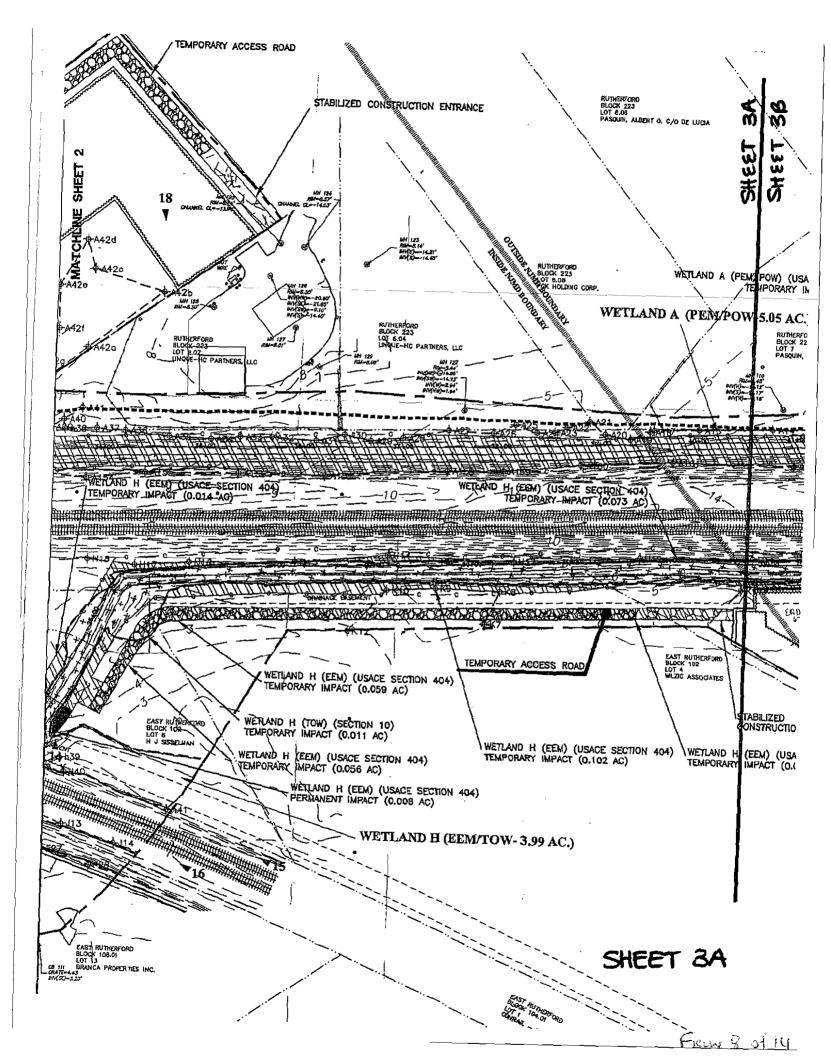
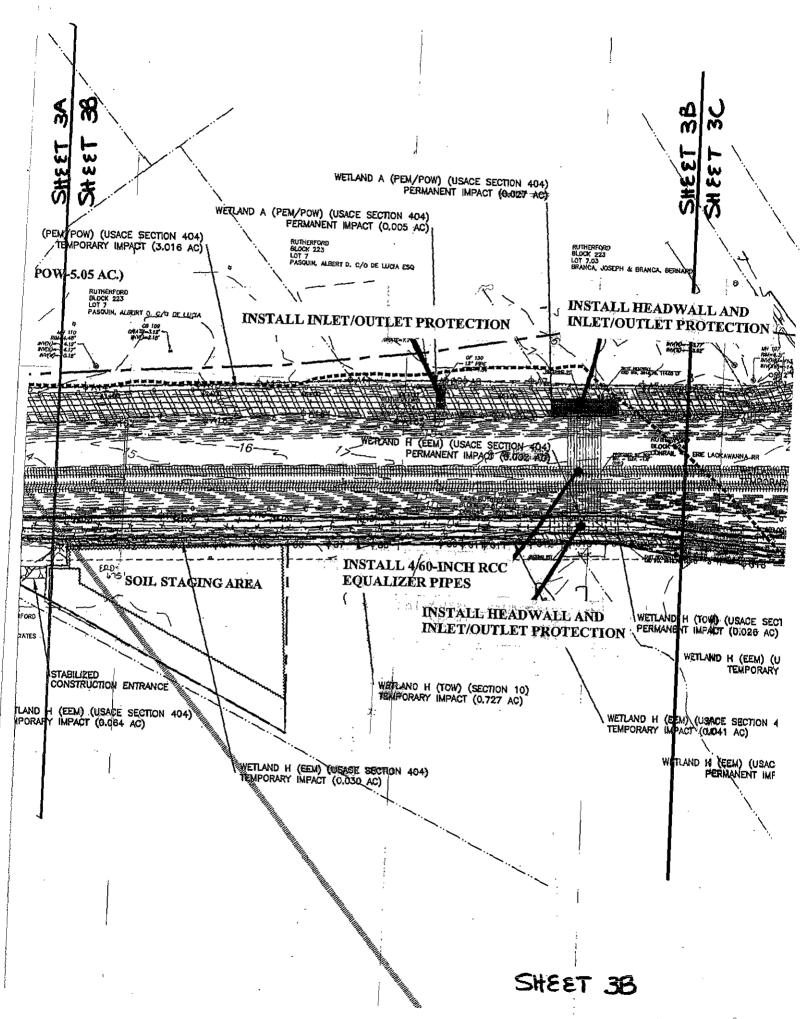
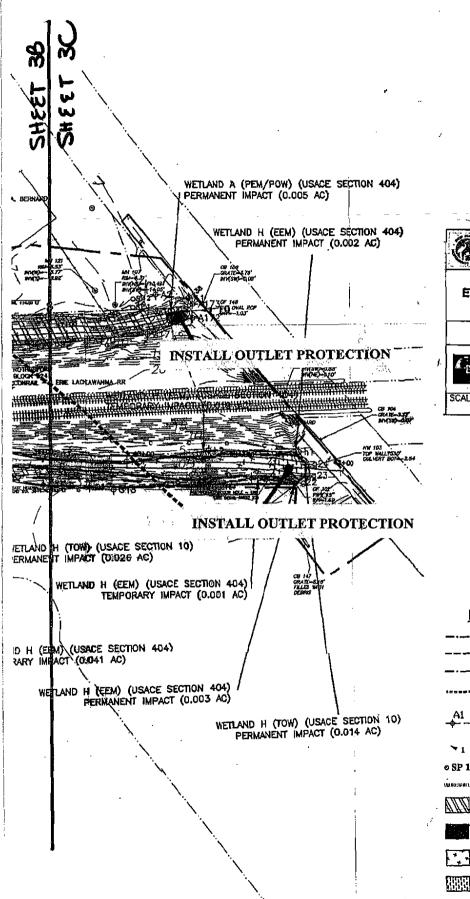


Figure 7 of (4)





Fring of 11



PERMIT SET



RESTORATION OF THE RUTHERFORD/
EAST RUTHERFORD DRAINAGE DITCH SYSTEM
BOROUGHS OF RUTHERFORD AND EAST RUTHERFORD
BERGEN COUNTY, NEW JERSEY

WETLAND PLANS - USACE,

THE LOUIS BERGER GROUP, INC.
30 VREELAND ROAD
FLORHAM PARK, NEW JERSEY 07932

JOHN T. AMOROSA
N.O. P.E. LIC. NO. 29431
CERTIFICATE OF AUTHORIZATION
24GA27933700

AS SHOWN

MAY, 2007

SHEET 3 of 5

REVISED JUNE 2007

GRAPHIC SCALE

(lk yest) 1 inch = 50 ft.

LEGEND:

--- PROJECT BOUNDARY

-- MEAN HIGHER HIGH WATER LINE (2.71' NAVD 88)

--- MEAN HIGH WATER LINE (2.41' NAVD 88)

FEMA: 100-YR FLOOD BOUNDARY

A1 WETLAND AND OPEN WATERS
AND WETLAND FLAG

The photo station/direction of view

SP1 SOIL POINT LOCATION

MINISTRUCT BOUNDARY

TEMPORARY WETLAND IMPACTS (USACE SECTION 404)
TOTAL IMPACTS = 3.659 AC

PERMANENT WETLAND IMPACTS (USACE SECTION 404) TOTAL IMPACTS = 0.881 AC

TEMPORARY WETLAND IMPACTS (USACE SECTION 10)
TOTAL IMPACTS = 2.107 AC

PERMANENT WETLAND IMPACTS (USACE SECTION 10)
TOTAL IMPACTS = 0.286 AC

SHEET 3C

Figure 10 of 14

